

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 9, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Planning Commission was held Thursday, August 9, 2001 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Don Anderson; James Barfield; Dorman Blake; Kerry Coulter (late arrival); Frank Garofalo; Bill Johnson; John W. McKay, Jr.; and Elizabeth Bishop (late arrival). Ron Marnell; and Bud Hentzen were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Associate Planner, and Karen Wolf, Recording Secretary.

1. Approval of MAPC minutes for July 5, 2001

WELLS noted he was at the meeting but not listed.

GAROFALO also had some changes he wanted noted.

MOTION: That the minutes for July 5, 2001 be approved, as amended.

WELLS moved, **JOHNSON** seconded the motion, and it carried unanimously (10-0).

2. Subdivision Committee items 2/2, 2/6, and 2/7 were pulled for further consideration.

MOTION: That items 2/1, 2/3, 2/4, 2/5, 2/8 and 2/9 be approved.

MCKAY moved, **WARREN** seconded the motion, and it carried unanimously (10-0).

2/2. SUB2001-57 - Final Plat of EQUESTRIAN ESTATES ADDITION, located on the S.E. corner of 127th Street East and Harry.

GAROFALO asked about guarantees associated with item 2/2.

MOTION:: That item 2/2 be approved

JOHNSON moved, **GAROFALO** seconded the motion, and it carried unanimously (10-0).

2/6. SUB2001-74 – Final Plat of KISER WEST ADDITION, located on the southwest corner 13th Street North and Greenwich Road.

GAROFALO asked about access control and review by traffic engineer.

MOTION:: That item 2/6 be approved

GAROLFALO moved, **MCKAY** seconded the motion, and it carried unanimously (10-0).

2/7. SUB2001-00073 – Final Plat of EAGLES LANDING AT NORTH OLIVER SECOND ADDITION, located on the southwest corner of 45th Street North and Oliver.

There was a discussion regarding access control, applicant indicated he was agreeable with temporary opening.

MOTION:: That item 2/7 be approved

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0-01), **BISHOP** abstained.

3. Vacation item 3/2 was pulled for further consideration.

MOTION: That items 3/1, 3/3, 3/4, and 3/5 be approved subject to Subdivision Committee recommendations.

MCKAY moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

3/1. VAC2001-00025 – Request to Vacate Hornecker Street and the right-of-way and a platted setback

APPLICANT: Dirk Schill

LEGAL DESCRIPTION: The property, being a tract in the SE ¼ of SEC 25, TWP 27-S, R2-W, described as commencing at a point on the east line of said SE ¼, said point being 1410 feet north of the north right-of-way line of US highway 54 (condemned in case a-38302); thence west parallel with said highway right-of-way line 1466.8 feet for a place of beginning; thence continuing west parallel with said highway right-of-way 70 feet to a point platted in Wells Acre, Sedgwick County, Kansas, as the SE corner of Lot 2, Block A; thence north parallel with the east line of said SE ¼ 235 feet to a point platted in Wells Acre, Sedgwick County, Kansas, as the NE corner of Lot 1, Block A; thence east parallel with the said highway right-of-way, 70 feet; thence south 235 feet to the place of beginning.

LOCATION: Generally located northwest of the Hornecker – Lynndale intersection.

REASON FOR REQUEST: The applicant proposes to use as part of his residence.

CURRENT ZONING: Subject property is a dedicated but undeveloped road. Properties to the south, east and west are zoned SF-5 Single Family Residential and developed residential. Property to the north is zoned SF-5 Single Family Residential and developed as Auburn Hills Golf Course.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain KG&E easement, which was dedicated by separate instrument.
2. Dedicate a 20-ft utility easement for City utilities.
3. Lot Split of Lots 1 & 2, Block A Wells Acre Addition.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to current City Standards

The applicant proposes to use the Hornecker Drive and its ROW for himself. Currently this section of Hornecker resembles a tended yard. The applicant has stated that ATV (All Terrain Vehicle) riders use the unimproved road for access into the area around Auburn Hills Golf Course. The vacation would allow the applicant to control or shut off this ATV traffic. The applicant and neighbors have observed that the unimproved road has considerable drainage going through it. There have been 2 calls expressing concern over the applicant's intentions for development of this section of Hornecker in reference to the current drainage and how their property would be affected if there was grading or paving done on it. The Wells Acre Addition Plat (recorded April 14, 1969) dedicated this section of Hornecker Drive "to and for use of the public".

The vacation would not dead-end Hornecker or any other street. No properties would be denied access to existing streets by vacating this section of Hornecker. Current ownership of Lots 1 & 2, Blk A, Wells Acre Add, has these lots being split into an eastern half of Lots 1 & 2 (which the applicant owns) and a western half of Lots 1 & 2, both have direct access to Lyndale Street. All roads identified on the vicinity map are dirt with no curb and gutter.

This request was considered and approved by the Subdivision at their June 28, 2001 meeting. The request was considered by the MAPC at their July 5, 2001 meeting and recommended to be sent back to the Subdivision Committee for reconsideration because the public hearing notice was not correct; the applicant desired to vacate both Hornecker Drive and its ROW and the platted 30-ft setback abutting Hornecker Drive. The public hearing notice was only for the vacation of Hornecker Drive and its ROW. This case was re-advertised in the Eagle on July 19, 2001 for the SD on July 26, 2001 and the MAPC for August 9, 2001.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 19, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described street, its right-of-way and the building setback line and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the street and its right-of-way described in the petition should be approved subject to the following conditions:
1. Retain KG&E easement, which was dedicated by separate instrument.
 2. Dedicate a 20-ft utility easement for City utilities.
 3. Lot Split of Lots 1 & 2, Block A, Wells Acre Addition.
 4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 5. All improvements shall be according to current City Standards.

3/3. VAC2001-00031 – Request to Vacate a portion of reserve along south boundary of Lot 2, Block 1, Huntington Place 6th Addition.

OWNER: Huntington Place Owner's Association

APPLICANT: James and Melanie Garden

LEGAL DESCRIPTION: A tract of land in the NE ¼ of Section 18, Township 27 south, Range 1 west, being more particularly described as follows: Beginning at the southern most corner of Lot 2, Blk 1 Huntington Place 6th Addition, Wichita, Kansas: thence N 54 degrees 15' 05" E for a distance of 124.71'; thence along a curve to the right having a length of 20.0', radius of 175.0' delta of 6 degrees 32'48", chord bearing of S 29 degrees 11'47"E, for a distance of 19.98'; thence S63 degrees27'46"W, for a distance of 124.03' to the point of beginning.

LOCATION: Generally located southwest of 13th – Maize St intersection, on Manchester St.

REASON FOR REQUEST: The applicant proposes to build a house.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north, south, east and west are zoned SF-5 Single Family Residential.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Adjust CUP DP 152, to reflect the change of use for this portion of the reserve.
- (2) Retain portions of 10-ft utility easement and 15-ft drainage easement that fall in the portion of the vacated reserve.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards

The applicant is requesting consideration to vacate a portion of a reserve abutting the south line of Lot 2, Blk 1, Huntington Place 6th Addition. The pie shaped portion (1,240 sq-ft, with the narrow end being at the rear of the yard and the wide end in the front yard) of the reserve that the applicant is requesting vacated would move the side yard setback (unplatted but per CUP DP 152 for interior side yard setback of 6-ft) back with the newly created property line, allowing the applicant to build a house without encroachment into the interior side setback of 6-ft. The applicant has a letter from the Huntington Place Owners Association stating that they are 'not protesting' the application. The reserve is currently being used for open space.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 19, 2001, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portion of a reserve, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

Therefore, the vacation of the final plat described in the petition should be approved subject to the following conditions.

- (1) Adjust CUP DP 152, to reflect the change of use for this portion of the reserve.
- (2) Retain portions of 10-ft utility easement and 15-ft drainage easement that fall in the portion of the vacated reserve.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards

3/4. VAC2001-00032 - Request to Vacate a 10-foot utility easement.

OWNER/APPLICANT: Brentwood Development Inc./Steve Miller

LEGAL DESCRIPTION: 10-ft utility easement between lots 13 & 14, Blk 4, Brentwood Village Addition.

LOCATION: Generally located southeast of the Harry – Webb intersection

REASON FOR REQUEST: The applicant proposes to reduce the number of lots and make larger lots.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north, south, east and west are zoned SF-5 Single Family Residential.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Retain the portion of the 10-ft utility easement in the rear yard that the 10-ft easement intersects with.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards

The applicant is requesting consideration to vacate a 10-ft utility easement between Lots 13 & 14, Block 4, Brentwood Village Addition. The applicant proposes to reduce the number of lots and make larger lots, this will be accomplished by a boundary shift.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 19, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the street and its right-of-way described in the petition should be approved subject to the following conditions:
1. Retain the portion of the 10-ft utility easement in the rear yard that the 10-ft easement intersects with.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

3/5. VAC2001-00033 – Request to Vacate a 60-foot Railroad Easement.

OWNER/APPLICANT: Pioneer Development
TK Group, LLC
City of Wichita
Michaelis Real Estate
Lee Aero, LLC
WK Capital Enterprises

AGENT: Greg Farris

LEGAL DESCRIPTION: The East 60-ft of Lot 1; The east 60-ft of Lot 13; that part of the 60-ft Railroad Easement crossing the west 116.8-ft of Lot 14; the south 20-ft of Lots 18, 19 and 20; the south 20-ft of the west 150-ft of Lot 21; the south 40-ft of the east 50-ft of Lot 21; the south 40-ft of Lot 22; the south 40-ft of the west 30.96-ft of Lot 23, the south 80-ft of the east 40-ft of the west 70.96-ft of Lot 23; the south 40-ft of the east 129.19-ft of Lot 23; and the south 40-ft of Lot 24, Comotara Industrial Park 5th Addition.

LOCATION: Generally located southwest of the 37th St N – Webb Road Intersection

REASON FOR REQUEST: Vacate undeveloped Railroad Easement for future development.

CURRENT ZONING: Subject property is zoned LI Limited Industrial. Properties to the north, south, east and west are zoned LI Limited Industrial.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain the utility and drainage easements in the railroad easement.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

The applicants are requesting consideration to vacate a platted Railroad Easement. The easement varies in its width from 60-ft to 40-ft to 20-ft. The easement has not been developed. Part of the easement was vacated when Lots 15, 16, 17 and part of 14, Comotara Industrial Park 5th Addition, were platted into Lots 1 & 2, Mediterranean Plaza Addition (via dedication on the Mediterranean Plaza Addition plat), which penetrates Comotara Industrial Park 5th Addition and abuts it on the south for most of its length. K-96 abuts the remainder of the plat on the south. Abutting the plat on the northwest is the Comotara Industrial Park 2nd Addition. There is a Railroad Easement on Lots 1-8, Comotara Industrial Park 2nd Addition, which has not been vacated. North of 35th St N in the Comotara Industrial Park 2nd Addition, there is track is owned by the City of Wichita which was to serve as a spur connecting the Comotara Industrial Park 2nd Addition to the Union Pacific. This track ends on Lot 4, Comotara Industrial Park 2nd Addition, which is owned by the City of Wichita. Lot 5, Comotara Industrial Park 2nd Addition, is south of Lot 4 and abuts 35th St N is also owned by the City of Wichita. The remaining 3 south lots (Lots 6, 7, & 8, Comotara Industrial Park 2nd Addition) are owned by 2 different entities. There are no known plans for the extension of the Union Pacific Rail Road tracks. The Railroad easement is not owned by the Union Pacific or any other railroad. Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 19, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described railroad easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the railroad easement described in the petition should be approved subject to the following conditions.
1. Retain the utility and drainage easements in the railroad easement.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

3. All improvements shall be according to City Standards.

GAROFALO moved, **ANDERSON** seconded (12-0)

3/2. VAC2001-00027 – Request to Vacate Plat.

OWNER/APPLICANT: Loren & Donnah Taylor

LEGAL DESCRIPTION: Lot 1; Block A, L&D Taylor Addition.

LOCATION: Generally located southwest of the 63rd St S – Hydraulic intersection

REASON FOR REQUEST: The applicant is applying for a delay in the payment of special assessments for the cost of constructing public improvements.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Dedicate by separate instrument complete access control along the Hydraulic frontage except for the existing opening for the drive to the applicant's residence, as shown on the plat drawing text.
2. Dedicate by separate instrument the platted 10-ft utility easements along the west and north sides of the property, as shown on the plat drawing and referred to in the dedication
3. Dedicate by separate instrument the Hydraulic Street ROW, as shown on the plat drawing.
4. Dedicate by separate instrument the 66-ft Anadarko pipeline easement, as shown on the plat along the south property line.
5. Waive the requirement of platted 4.5 acres for development with a lagoon on it.
6. Any future development on the property would require the applicant to plat the property with the required 4.5 acres needed for property with a lagoon.
7. County Health Department requires a 4-ft high chain link or welded fence with a lockable gate to enclose the lagoon, regardless of it being currently in use or not.
8. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
9. All improvements shall be according to City Standards.
10. Dedicate by separate instrument a utility easement for KG&E for utilities along drive.

The applicant is requesting consideration to vacate the entire 10 acres of the L&D Taylor Addition final plat. The plat was approved by the City of Haysville on 04-28-97 and by the Sedgwick County Commission on 06-18-97. It was recorded 06-20-97. The property was annexed into the City of Wichita in 2000. The applicant is seeking to delay the payment of special assessments for the cost of constructing public improvements, in this case extending City water to the property. Charter Ordinance No. 139 provides City Council authorization to provide for a delay in payment of special assessments for the cost of constructing public improvements, not to exceed 15 years with a possible extension of 10 years if 50% or less of the property has not been developed. The conditions for consideration of the delay of payment of special assessments for the cost of constructing public improvements are as follows;

- (1) The land is in excess of 2 ½ acres.
- (2) Has not been platted
- (3) Primarily used for agricultural purposes
- (4) Has a population density of less than one family per acre
- (5) Not served by public improvement

The applicant meets conditions 1, 4 and 5. Condition 3 appears to have been met, as Staff observed the property was mostly in wheat, just prior to the harvest kicking in between the 2nd and 3rd week of June. The applicant's property is platted, so it does not meet condition 2, thus the applicant's request. The property is developed with a house, garage and lagoon; prior to developing the property the applicant was required to plat it. Staff has been advised that this case is considered unique because of the financial hardship it places on the applicant, who desires City water.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 19, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described final plat, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

Therefore, the vacation of the final plat described in the petition should be approved subject to the following conditions.

1. Dedicate by separate instrument complete access control along the Hydraulic frontage except for the existing opening for the drive to the applicant's residence, as shown on the plat drawing text.
2. Dedicate by separate instrument the platted 10-ft utility easements along the west and north sides of the property, as shown on the plat drawing and referred to in the dedication.
3. Dedicate by separate instrument the Hydraulic Street ROW, as shown on the plat drawing.
4. Dedicate by separate instrument the 66-ft Anadarko pipeline easement, as shown on the plat along the south property line.
5. Waive the requirement of platted 4.5 acres for development with a lagoon on it.
6. Any future development on the property would require the applicant to plat the property with the required 4.5 acres needed for property with a lagoon.
7. County Health Department requires a 4-ft high chain link or welded fence with a lockable gate to enclose the lagoon, regardless of it being currently in use or not.
8. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
9. All improvements shall be according to City Standards.
10. Dedicate by separate instrument a utility easement for KG&E for utilities running along applicant's drive.

Staff indicated conditions of approval were being amended.

MOTION:: That item 3/2 be approved.
JOHNSON moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

ZONING:

4. **Case No. ZON2001-00045** – Rush Investment, LLC / Edwin Rush (Owner – Co-Applicant); Garrison L. Hassenflu (Co-Applicant) request zone change from “LI” Limited Industrial to “OT” Old Town Overlay District to permit multi-family residential development on property described as:

N. 25 FT. OF LOT 9 AND ALL OF LOTS 10, 11, 12, BLOCK A, H. L. AND ANNIE M. TAYLOR'S ADDITION, TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, EXCEPT EAST 10 FEET OF SAID LOTS TAKEN FOR STREET TOGETHER WITH THE EAST 10 FEET OF VACATED MEAD AVENUE ADJACENT ON THE WEST. Generally located South of 3rd Street and east of Mead (355 N. Rock Island)

BACKGROUND: The applicant is requesting "OT-O" Old Town Overlay zoning district designation for property located south of 3rd Street between Meade and Rock Island. If the "OT-O" request is approved, the underlying zoning would remain "LI" Limited Industrial, but would become subject to the design, signage and parking requirements of the "OT-O" district, and would permit residential uses on this property which are not currently permitted by the underlying "LI" zoning. The applicant proposes to re-develop the Case Supply building into 47 apartments.

The existing building is 4 1/2 stories in height with a brick facade that was previously used as a warehouse. The applicant indicates the exterior facade would remain as is except an elevator would be installed on the south side and windows would be replaced with a style that replicates the original windows. The buildings facade blends perfectly with the predominate style of buildings currently

found in the Old Town district. Currently, there are loading docks located on the south and west sides of the building with parking areas located next to the docks. Proposed plans call for the basement to be remodeled for parking which would provide for the majority of required on-site parking spaces. On-site residential parking is calculated at 1 space per unit in the "OT-O" district in comparison to the 1.25 to 1.75 ratios normally used, and owners can waive some or all of their parking requirements by paying fees to the City's "parking district".

Currently, the Old Town Overlay District stops at 2nd Street. If approved, this request would represent an "island" of the "OT-O" district within a larger area zoned "LI". However, the Commission and City Council have previously approved an expansion of the district south of Douglas, and there is a concurrent request for the "OT-O" district for property located north of 2nd Street, on Mosley (ZON2001-00043). If approved, that case would be an "island" of "OT" in a larger area of "LI" zoning as well. There is an expectation that there will be additional requests for "OT-O" zoning in the general area thereby alleviating concerns over the spotiness of these initial "OT" requests north of the original Old Town district.

All nearby properties are zoned "LI" Limited Industrial and used for commercial and industrial type uses.

CASE HISTORY: H. L. And A. M. Taylor Addition was platted around 1900.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI" Limited Industrial; warehouse
SOUTH:	"LI" Limited Industrial; warehouse
EAST:	"LI" Limited Industrial; warehouse/wholesale lumber
WEST:	"LI" Limited Industrial; warehouse

PUBLIC SERVICES: All normal public services are available. Meade, Rock Island and 3rd Streets are brick streets having 60 feet, 40 feet and 70 feet respectively of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" does not specifically address this area but refers to the "Development Plan for Downtown Wichita" (June 1989). Similarly, the Downtown Plan does not provide specific land use recommendations for the area, but identified the area north of Douglas as the "Old Town/Rock Island Rehabilitation" challenge.

The Downtown Plan included a goal of mixed-use development, with the objective of introducing lodging, residential and/or recreational activities to areas that are underutilized. It is also noted that there was an unmet demand for more urban style, loft housing, and indicated the market could be absorbed by Old Town.

Strategy II.A.1 of the 1999 Comprehensive Plan indicates that zoning is an appropriate tool to promote mixed use and higher density developments.

RECOMMENDATION: The "OT-O" designation assists in redevelopment of the property in two ways. It allows for residential use of the property that would otherwise be prohibited since the base zoning is "LI" Limited Industrial. It also supports the the Downtown Plan goal of providing additional residential use in the Downtown area. The "OT-O" designation also reduces the amount of on-site parking that would otherwise be required for the proposed use. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All nearby properties are zoned "LI" Limited Industrial and used for commercial or industrial uses. The properties surrounding the application area are part of the larger original warehouse district and still has some active commercial and industrial uses. However, three-quarters of a block to the south is the original Old Town district which has seen a successful transition from the older warehouse use to a mixed use environment.
2. The suitability of the subject property for the uses to which it has been restricted. The property is zoned "LI" Limited Industrial, which permits nearly all use except residential. It is possible the site could be used for permitted uses, but it is unlikely as the site is currently vacant and there is increasing interest for Old Town type uses in the general area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Increased parking demand and traffic volumes would result, but the applicant will have to provide required parking and existing street improvements appear to be adequate to handle anticipated increases.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The requested change supports the Downtown Plan by encouraging residential uses in the Downtown area and the re-use of an existing vacant building within the warehouse district.
5. Impact of the proposed development on community facilities: A modest increase in parking and traffic will occur. However, the applicant will need to provide off-site parking sufficient to meet code requirements and street rights-of-way are adequate to provide traffic circulation.

BARFIELD asked if further residential development will occur in the area.

STAFF indicated that additional development was likely, but couldn't say if it would be residential.

WELLS indicated he understood OT district would be extended to north of 2nd Street and eastward to Washington as part of cinema project.

KROUT indicated the cinema project does not include the subject property and that other properties in the area are likely to ask for OT district, but that parking is an issue.

BISHOP asked how a Tax Increment District related to the property.

KROUT indicated that the intent is to create a new TIF for the cinema project to pay for parking and street improvements and clarified that the TIF and the OT district are not the same. He also indicated that there is a parking district that can be used to substitute for meeting parking requirements on site.

GARY HASSENFLU indicated that Garrison Development would be the developer and he would answer any questions.

BLAKE asked about parking.

HASSENFLU indicated that about 40 cars could be parked in the basement of the building.

WELLS moved, **BISHOP** seconded (11-1) per staff report findings, **BARFIELD** opposed.

BARFIELD indicated that he was opposed to residential uses being located in an industrial area.

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5. **Case No. ZON2001-00044** – Covenant Development corporation, Stephen Dawson (owner); Ron Peake Design Build, Ron Peak (contract purchaser); PEC, PA, Gary Wiley (agent) request zone change from "SF-5" Single-Family to "NO" Neighborhood Office on property described as:

THAT PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 27 SOUTH, RANGE 2 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE S 00 DEGREES 37'46" E ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 660.00 FEET; THENCE S 88 DEGREES 49'59" W, A DISTANCE OF 681.47 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 168.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25 DEGREES 59'37" AN ARC DISTANCE OF 76.22 FEET; THENCE N 11 DEGREES 07'33" E, A DISTANCE OF 261.99 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 339.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12 DEGREES 17'34" AN ARC DISTANCE OF 72.73 FEET; THENCE N01 DEGREES 10'01"W, A DISTANCE OF 6.25 FEET; THENCE N 08 DEGREES 03'47" E, A DISTANCE OF 81.05 FEET; THENCE N 01DEGREES 10'01"W, A DISTANCE OF 170.00 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE N 88 DEGREES 49'59"E ALONG SAID NORTH LINE, A DISTANCE OF 612.04 FEET TO THE POINT OF BEGINNING; EXCEPT THE EAST 150.00 FEET OF THE NORTH 500 FEET AND THE NORTH 60.00 FEET THEREOF. Generally located South of 21st Street North, between Webb and Greenwich.

BACKGROUND: The applicant is requesting "NO" Neighborhood Office on a 7.37-acre unplatted parcel south of 21st Street N., between Webb and Greenwich. The undeveloped property is currently zoned "SF-5" Single Family.

The application area abuts similar, undeveloped, "SF-5" zoned property to the south, east and west. The area to the south of the application area is platted for single-family development, and the property to the west is platted and planned as a church site. A smaller, extended portion of the application area property abuts the county line, and "SF-20" (Single Family) zoned property to the east. To the north of the application area, across 21st Street N., is the Tallgrass East Residential CUP, DP 163. The Tallgrass Residential CUP, which is zoned "SF-5," maintains a masonry screen wall along 21st Street N. Areas zoned "LC," Limited Commercial, exist at both the 21st Street N. and Webb intersection, and the 21st Street N. and Greenwich intersection. Approximately 600 feet to the west of the application area is property zoned "B" Multi-family, this property is developed with apartment units.

The proposed zone change, from "SF-5" to "NO," would require platting, and conformance to all property development standards in the Unified Zoning Code.

CASE HISTORY: The Remington Place Subdivision for the property to the south and west was filed on January 8, 2001, and was recorded on May 10, 2001.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	single family residences
SOUTH: "SF-5"	platted for single family residences
EAST: "SF-5," "SF-20"	unplatted and undeveloped

JOHNSON moved, **WARNER** seconded to approve as requested by the applicant.

KROUT commented that staff supported the request but has concerns about access as proposed. If approved as requested, we likely will see additional requests for driveways further east. It is better to cluster more intense uses where they can share access points.

MICHAELIS and **JOHNSON** indicated the difficulty of dealing with access at the zoning stage and it is better addressed at the platting stage.

BARFIELD asked if access was a concern with staff.

KROUT indicated access control is a concern and cannot always be addressed at the platting stage only.

GAROFALO and **MICHAELIS** discussed practicality of addressing access during zoning.

Motion to approve (10-2); **BISHOP, GAROFALO** opposed.

6. **Case No. CON2001-00039** – Earl G. Powell (Owner); Brad Murray Rentals, LLC, Cricket Communications, Inc., ITSROE, com, Inc., and WichitaUSA.com (Applicants); Austin Miller PA, c/o Kim Edgington (Agent) request Conditional Use for a wireless communication facility on property described as:

PART OF LOT 8 AND THE SOUTH 25 FEET OF LOT 7, SAGER ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTH 25 FEET OF LOT 7, SAGER ADDITION, SAID POINT BEING 80.27 FEET EAST OF THE NORTHWEST CORNER OF SAID SOUTH 25 FEET OF LOT 7; THENCE EAST ALONG SAID NORTH LINE OF SOUTH 25 FEET OF LOT 7, FOR A DISTANCE OF 80.00 FEET; THENCE SOUTHWEST PARALLEL WITH EAST LINE OF SAID SAGER ADDITION, FOR A DISTANCE OF 80.00 FEET; THENCE WEST PARALLEL WITH NORTH LINE OF SAID SOUTH 25 FEET OF LOT 7, FOR A DISTANCE OF 80.00 FEET; THENCE NORTHEAST PARALLEL WITH EAST LINE OF SAID SAGER ADDITION, FOR A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING. Generally located South of Pawnee and east of St. Francis.

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached Site Elevation) by Brad Murray Rentals, LLC for use by Cricket Communications, Inc., ITSROE.com, Inc., and WichitaUSA.com. The applicant has provided a list of reasons (see attached letter and photographs) why they feel their request conforms to the Wireless Communication Master Plan.

The proposed site is zoned "LI" Limited Industrial. The Unified Zoning Code permits Wireless Communication Facilities up to 150 feet in height in the "LI" Limited Industrial zoning district with an Administrative Permit; however, planning staff indicated to the applicant that an Administrative Permit would not be approved at this location since a Conditional Use request (CON2001-00013) for a 150-high tower on the abutting property to the north was denied by the City Council on April 17, 2001.

The proposed monopole tower would be sited on an approximately 6,400 square foot area located south of Pawnee and east of St. Francis on vacant industrial land (see attached Site Plan). The site plan shows a compound enclosed with a six-foot high screening fence with the tower located in the center of the compound and the ground-level communication equipment located in the southeastern portion of the compound. The site plan shows that access would be provided to the site through a 25-foot wide access and utility easement to St. Francis, a paved local street. No landscaping is shown on the site plan, but the applicant indicates that there are existing trees along the railroad right-of-way to the east and that the applicant is willing to install additional landscaping if it is determined to be needed.

The character of the surrounding area is that of mixed uses with single-family residences across railroad tracks to the east, vacant industrial land to the south, apartments to the southwest, the Pawnee Plaza shopping center to the west, and industrial uses to the north, including a 110-foot high monopole tower and an 106-foot high temporary "cellular-on-wheels." The properties to the north and south of the site are zoned "LI" Limited Industrial. The properties to the east are zoned "TF-3" Two-Family Residential. The properties to the west are zoned "GC" General Commercial.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. (see attached RF Engineering Evaluation and propagation plots). The justification for the request indicates that the existing monopole tower located approximately 500 feet to the north does not provide sufficient height. The justification also indicates that reconstructing the existing monopole would cost more than constructing a new tower (see attached letters).

Another applicant submitted a Conditional Use request (CON2001-00041) for a 130-foot high monopole tower to be located approximately 1/3 mile to the northwest near Pawnee and Broadway for the purpose of supporting a planned initial build-out of a

wireless phone system by Cricket Communications, Inc.; therefore, planning staff contacted both applicants and requested documentation from Cricket that they would be locating on the respective towers. The applicant in this case provided a letter (attached) from an attorney indicating that the applicant has a Communications Equipment Site Agreement with Cricket. Planning staff contacted Cricket to confirm this since a copy of the agreement was not provided, and Cricket indicated that the agreement is for the site on the abutting property to the north where the request for a tower was denied and not the site currently requested. Cricket further added that they intend to locate on the tower near Pawnee and Broadway rather than this site and would attend the public hearings to state their position on this issue.

The application also indicates that the proposed tower is needed by ITSROE.com, Inc. to provide wireless broadband data transfer service to the area. The justification (see attached letter and diagrams) indicates that a minimum antenna height of approximately 120 feet is needed to provide wireless broadband service to the area; however, the attached Site Elevation shows the antennas for ITSROE.com, Inc. to be located at the 150-foot level.

The application also indicates the proposed tower is needed by WichitaUSA.com to provide wireless broadband data transfer service to the area (see attached letter). The application does not provide any narrative that documents the need for WichitaUSA.com to locate on the proposed tower, which is required by Section VI.E.3 of the Wireless Communication Master Plan. Additionally, the attached Site Elevation does not illustrate the location or type of antennas to be used by WichitaUSA.com, which is required by Section VI.E.2.b. of the Wireless Communication Master Plan.

CASE HISTORY: The site is platted as part of the Sager Addition, which was recorded on July 15, 1953.

ADJACENT ZONING AND LAND USE:

NORTH:	"L"	Industrial uses, including 110-foot high monopole tower
SOUTH:	"L"	Undeveloped
EAST:	"TF-3"	Single-family residences
WEST:	"GC"	Shopping center & apartments

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through an access easement to St. Francis, a paved local street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 500 feet north of the proposed tower that could be rebuilt. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any cost information pertaining to the ground lease and antenna space lease so that the entire cost of the two alternatives can be compared. Second, the proposed 150-foot high tower does not minimize the height of the facility. Cricket Communications, Inc. and ITSROE.com, Inc. have indicated that the minimum height required for their antennas are 130 feet and 120 feet. WichitaUSA.com has indicated that a height of 150 feet is needed; however, the documentation required by the Wireless Communication Master Plan to support the height indicated was not submitted with the application. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be **DENIED**; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.

- F. Revised elevation drawings indicating the location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed uses with single-family residences across railroad tracks to the east, vacant industrial land to the south, apartments to the southwest, the Pawnee Plaza shopping center to the west, and industrial uses to the north, including a 110-foot high monopole tower. The properties to the north and south of the site are zoned "LI" Limited Industrial. The properties to the east are zoned "TF-3" Two-Family Residential. The properties to the west are zoned "GC" General Commercial.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LI" Limited Industrial and could be developed with an industrial use. Wireless communication facilities up to 150 feet in height in the "LI" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "LI" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping surrounding the site would only partially obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties. Locating a second tower within only 500 feet of an existing tower would lead to a "tower farm" effect, that would increase the negative visual impact on nearby residential properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 500 feet north of the proposed tower that could be rebuilt. While the applicant has indicated that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any cost information pertaining to the ground lease and antenna space lease so that the entire cost of the two alternatives can be compared. Second, the proposed 150-foot high tower does not minimize the height of the facility. Cricket Communications, Inc. and ITSROE.com, Inc. have indicated that the minimum height required for their antennas are 130 feet and 120 feet. WichitaUSA.com has indicated that a height of 150 feet is needed; however, the documentation required by the Wireless Communication Master Plan to support the height indicated was not submitted with the application.
- 5. Impact of the proposed development on community facilities: Access to the site is proposed to be from St. Francis, a paved local street, so no negative impacts on community facilities are anticipated.

BARFIELD asked about City Council denial of an earlier request in this general area that MAPC had approved, he also asked about height.

ANDERSON asked why City Council turned that case down.

WARREN commented that most people cannot tell the height of structures.

KIM EDGINGTON, agent for applicant, addressed the history of the tower that had been denied by City Council, and indicated the Council member Lambke has indicated support for this request earlier. She compared current applicant's site to the previous site, cost of rebuilding towers compared to new build and stated they need 150 feet height to accommodate 5 carriers.

WARREN asked if Sprint was the owner of the existing tower.

EDGINGTON indicated yes.

WARREN asked how much it would cost to tear the tower down.

EDGINGTON indicated \$265,000 and indicated that Sprint will not allow Brad Murray to rebuild their tower. Sprint wants to maintain control of the tower. Sprint tower cannot be added to due to its construction. It is a 110-foot tall tower with space available at the 75 foot height.

FERRIS indicated that Cricket will not go on proposed tower. Cricket had signed a lease to go on the tower that had been denied earlier, but Cricket feels that since that tower was denied the lease is no longer valid and was not transferable to this application.

JOHNSON asked if Cricket had a signed lease.

FERRIS said no, and further indicated that Sprint's tower was built under the old rules and was too short to accommodate additional carriers.

ANDERSON said he felt they should be looking for the best location for a tower, not who was going on the tower.

EDGINGTON says that Cricket was aware of application and this request complies with their requirements.

BARFIELD asked for clarification on City Council's decision on the earlier tower case that was denied, and asked for confirmation of age and height of Sprint's tower.

KROUT advised MAPC to ignore the statement by the applicant's agent that Council member Lambke is supportive of this case.

BISHOP asked for clarification of the plan's position on building of speculative towers.

KNEBEL explained that the plan does not support speculative towers.

WELLS asked if Cricket needs one or the other.

KNEBEL indicated that they need one or the other, not both.

ANDERSON asked if we would hear the other tower case before voting on this case.

MICHAELIS says he would like to hear them separately.

WARREN agreed with the Chair and indicated why he feels this is a good site for a tower, no noise, no parking demand, isolated location, and businessman ready to make an investment.

Motion **WARREN** moved, **BLAKE** seconded to approve subject to staff comments except grant 150 foot height with a potential to increase height 25%.

(There was a general discussion regarding the Wireless Master Plan's recommendations)

ANDERSON asked if approval of shorter Sprint tower was good planning.

WARREN commented that the wireless plan is a guide.

STAFF clarified that some portions of wireless plan are requirements, not just guidelines.

BARFIELD asked if the applicant will have to document that he has committed users to get a building permit.

STAFF indicated yes.

WARREN moved, **BLAKE** seconded (9-3) Barfield, Garofalo, Bishop opposed.

- 7. **Case No. CON2001-00041** – City of Wichita (Owner); Nurdyke Ventures, LLC c/o Mark Nurdyke and Cricket Communications, Inc., (Applicants); Ferris Consulting c/o Greg Ferris (Agent); request a Conditional Use for a wireless communication facility on property described as:

THAT PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER THEREOF; THENCE SOUTH 90 DEGREES WEST, ALONG THE NORTH LINE OF SAID NE/4, 135 FEET; THENCE SOUTH 00 DEGREES WEST, 282.90 FEET FOR PLACE OF BEGINNING; THENCE SOUTH 36 DEGREES 35'54" EAST, 36.51 FEET; THENCE SOUTH 25 DEGREES 50'37" WEST, 60.35 FEET; THENCE NORTH 20 DEGREES 48'31" WEST, 44.51 FEET; THENCE NORTH 25 DEGREES 50'37" EAST, 24.13'; THENCE NORTH 36 DEGREES 35'54" WEST, 10.44 FEET; THENCE NORTH 53 DEGREES 24'06" EAST, 20 FEET TO THE PLACE OF BEGINNING. Generally located South of Pawnee and west of Broadway at the South Police Substation.

APPLICANT/AGENT: City of Wichita (Owner); Nordyke Ventures, LLC c/o Mark Nordyke and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "TF-3" Two-Family Residential

SITE SIZE: 3,600 square feet

LOCATION: South of Pawnee and west of Broadway

PROPOSED USE: 150-foot high monopole tower

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached Elevation) by Nordyke Ventures, LLC for use by Cricket Communications, Inc. The applicant has provided a list of reasons (see attached letter) why they feel their request conforms to the review criteria for a Conditional Use. The proposed site is zoned "TF-3" Two-Family Residential. Wireless Communication Facilities over 65 feet in height in the "TF-3" Two-Family Residential zoning district may be permitted with a Conditional Use.

The proposed monopole tower would be sited on an approximately 3,600 square foot area located south of Pawnee and west of Broadway in Herman Hill Park, south of the police substation (see attached site plan). The site plan shows a compound enclosed with an eight-foot high wood fence with the tower located in the center of the compound and the ground-level communication equipment located in the eastern portion of the compound. The site plan shows that access would be provided to the site through a 20-foot drive to a paved street in Herman Hill Park. Existing trees within the compound are proposed to be removed, and the site plan shows four six-to eight-foot scotch pines to be planted on the west side of the compound.

The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, hc. (see attached RF Engineering Evaluation and propagation plots). The justification (see attached letter) for the request indicates that an existing monopole tower located approximately 1/3 mile to the southeast does not provide sufficient height. The justification also indicates that reconstructing the existing monopole would cost more than constructing a new tower.

The applicant indicates that the 80-foot level on the existing tower is available to locate antennas for Cricket; however, if Cricket locates their antennas at a height of 80 feet, another tower will be required further to west. In reviewing Cricket's system, planning staff thinks that another tower likely will be required further to the west in the vicinity of Pawnee and Meridian even if the requested 130-foot high tower is constructed at Pawnee and Broadway. Based on this, planning staff requested that the applicant defer the request to allow time to examine the possibility of locating at the 80-foot level on the existing tower at Pawnee and St. Francis in combination with constructing a new tower near Pawnee and Meridian in an existing industrial area. At the time the staff report was prepared, the applicant would not agree to the deferral, and planning staff had yet to meet with the applicant to discuss this option.

Another applicant submitted a Conditional Use request (CON2001-00039) for a 150-foot high monopole tower to be located approximately 1/3 mile to the southeast along St. Francis for the purpose of supporting a planned initial build-out of a wireless phone system by Cricket Communications, Inc.; therefore, planning staff contacted both applicants and requested documentation from Cricket that they would be locating on the respective towers. The applicant in this case provided an e-mail (attached) from the Site Acquisition Development Manager for Cricket indicating that Cricket would be locating on the tower if it is approved. Planning staff contacted Cricket to confirm this, and Cricket indicated that they intend to locate on the tower near Pawnee and Broadway rather than the St. Francis site and would attend the public hearings to state their position on this issue.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" & "B"	Vehicle sales; residential
SOUTH:	"GC"	Vehicle sales
EAST:	"GC"	Retail; restaurant
WEST:	"TF-3"	Herman Hill Park

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through a 20-foot drive to a paved street in Herman Hill Park.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless

Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used as an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be **DENIED**; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- K. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- L. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- M. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- N. The monopole shall not exceed 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- O. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- P. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- Q. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- R. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- S. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "TF-3" Two-Family Residential and is currently used as part of Herman Hill Park. Wireless communication facilities in excess of 65 feet in height in the "TF-3" district may be permitted with Conditional Use.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping surrounding the site would only partially obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used as an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request.
- 5. Impact of the proposed development on community facilities: Access to the site is proposed to be through a 20-foot drive to a paved street in Herman Hill Park, so no negative impacts on community facilities are anticipated.

ANDERSON asked who owns the land.

STAFF indicated it is owned by the City of Wichita.

BLAKE asked if we have towers in other parks?

STAFF responded there were more on school property than on city park land.

GREG FERRIS, agent for applicant, offered to review coverage map with the commission and then reviewed Wireless Plan location requirements for siting towers.

FERRIS met with the Park Director to select the specific location within the park.

FERRIS also reviewed the lease agreement and factor's used to evaluate requests. He also indicated that the City's Staff Screening committee also reviewed this request.

ANDERSON asked if the City has publicly advertised the availability of city land for towers.

FERRIS indicated the master plan states that city land is available.

BARFIELD asked if Ferris could confirm if Cricket will locate on this tower.

FERRIS stated they have a lease ready to sign once this case is approved.

GAROFALO asked if the Park Board reviewed the request.

FERRIS stated that the Park Board reviews these cases on a case-by-case basis.

GAROFALO asked to review the slides of the site.

ANDERSON indicated he supported the case.

BLAKE asked how close the tower would be to Broadway.

FERRIS indicated 100 feet.

BISHOP asked at what distance is co-location required? She wondered what is the logic of approving two cases so close to each other (speaking in reference to the tower case heard earlier).

JOHNSON noted differences between the two cases (e.g. zoning and effectiveness of screening and proximity to streets).

BARFIELD felt there is a better chance this tower will be built than the previous case. He also asked about the real likelihood of a company rebuilding an existing tower. He doubts anyone will ever rebuild a tower.

WARNER asked why City Council reviewed the earlier tower request that city council denied.

KROUT explained how cases from MAPC can be appealed to the City Council.

MICHAELIS asked about distance requirement with respect to height of tower and location relative to streets or other structures.

STAFF explained compatibility setback requirements.

BARFIELD asked about conflict of interest with the city being the applicant and potential of the council hearing the case.

STAFF explained since this is a Conditional Use case, council might not hear the case unless it is appealed and no council member has indicated he/she has made up their mind on this particular case.

ANDERSON moved **WARREN** seconded motion to approve subject to staff recommendation except to allow 150 feet of height. Vote on motion to approve (9-3); Blake, Coulter, Bishop opposed.

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8. **Case No. PUD2001-00003** – Mennonite Housing Rehabilitation Service of Wichita; Savoy, Ruggles & Bohm c/o Mark Savoy (Agent) request creation of a Planned Unit Development with two parcels on property described as:

A TRACT IN THE N 1/2 OF THE SE 1/4 OF SECTION 24, TWP 27-S, R-1-W OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS; DESCRIBED AS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID SE 1/4; 330 FEET WEST OF THE INTERSECTION OF THE CENTER LINE OF LOCKE AVENUE, NOW ST. PAUL AVENUE AND THE NORTH LINE OF SAID SE 1/4; THENCE SOUTH PARALLEL WITH ST. PAUL AVENUE, 417 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SE 1/4, 675 FEET; THENCE NORTH PARALLEL WITH SAID CENTER LINE OF SAID ST. PAUL AVENUE, 417 FEET TO THE NORTH LINE OF SAID SE 1/4; THENCE EAST 675 FEET TO THE POINT OF BEGINNING; EXCEPT A TRACT IN THE N 1/2 OF THE SE 1/4 OF SECTION 24, TWP 27-S, R-1-W OF THE 6TH

P.M., SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT OF THE NORTH LINE OF SAID SE 1/4, 330 FEET WEST OF THE INTERSECTION OF THE CENTER LINE OF LOCKE AVENUE, NOW ST. PAUL AVENUE AND THE NORTH LINE OF SAID SE 1/4; THENCE SOUTH 417 FEET; THENCE WEST 15 FEET; THENCE NORTH 417 FEET; THENCE EAST 15 FEET TO THE POINT OF BEGINNING, AND THE SOUTH 257 FEET OF THE NORTH 377 FEET OF THE EAST 15 FEET OF THE WEST 335.75 FEET OF LOT 1, WOODLAKE ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, AND RESERVE A, VILLA CHRISTI ADDITION, WICHITA, SEDGWICK COUNTY KANSAS. Generally located on the south side of 2nd Street North between St. Paul and Sheridan.

APPLICANT/AGENT: Mennonite Housing Rehabilitation Service of Wichita; Savoy, Ruggles & Bohm, c/o Mark Savoy (agent)

REQUEST: Creation of a Planned Unit Development with two parcels

CURRENT ZONING: "TF-3" Two-Family Residential; "MF-29" Multi-Family Residential

SITE SIZE: 5.21 ± acres

LOCATION: On the south side of 2nd Street North between St. Paul and Sheridan

PROPOSED USE: 62-unit apartment complex designed for elderly residents; office/community assembly/training facility for private non-profit agency

ACKGROUND: Mennonite Housing is proposing to develop a two-parcel Planned Unit Development along the south side of 2nd Street North between St. Paul and Sheridan. The proposed project would be 5.21 acres in size and consist of two parcels.

Parcel 1, which is 2.22 acres in size, would be a 62-unit three-story apartment building intended for senior residences over 62 years of age. The building would include assembly space for socialization, dining and meetings, and a wellness center/office. Mennonite Housing intends to provide some assisted living services to the residents. Proposed density would be 28 dwelling units per acre, comparable to the permitted density in the "MF-29" Multi-Family district.

Parcel 2, which is 2.99 acres in size, is proposed for an office/community assembly/training space for a private non-profit agency, Independent Living Resource Center, Inc. ("ILRC"). The applicant has requested general office, community assembly for training seminars, classroom spaces, storage space for donated medical equipment, conference spaces for community agencies, and a library of disability related materials.

One point of access is shown for Parcel 1 onto 2nd Street North and two points are shown for Parcel 2 onto 2nd.

Maximum height on both parcels is requested at 35 feet. With a proposed three-story residential building, the expected height to the mid-point of a pitched roof, where height is measured, could be this height or more. Maximum building coverage is requested at 25 percent for Parcel 1 and 20 percent for Parcel 2. Gross floor for Parcel 2 would be 25 percent. This would permit a total floor area of 32,610 square feet.

Parking needs are estimated to be relatively low for the apartments (Parcel 1) due to the age of the residents. Mennonite Housing estimates 30 percent of the residents would be over 85 years of age. The site design shows 54 parking spaces. This would be 0.87 parking spaces per unit, which is slightly above 0.75 spaces per unit required for assisted living units by the Unified Zoning Code..

Parking needs are also unique for the office site (Parcel 2). A high proportion of the clientele of ILRC are projected to be handicapped. The proposed parking plan shows 111 regular spaces and 56 handicapped spaces. This is an exceptionally high ratio of handicapped spaces.

The setbacks are shown as 35 feet for all setbacks on the office parcel. The apartment parcel has a front setback of 35 feet and side and rear setback of 25 feet. It should be noted that the proposed design concepts show parking spaces within the setbacks.

The surrounding neighborhood is mostly single-story residences with scattered duplexes. However, the subject property is part of a 40-acre tract that was originally Mount Carmel Academy. Much of this original 40-acre tract is vacant. The area to the south and west of this proposed P.U.D. is being developed as a single-family development, Woodlake Subdivision. Also, Mennonite Housing built three single-family houses along 2nd several years ago. These houses abut the proposed apartment site. The ARC of Sedgwick County, a similar non-profit agency to the proposed ILRC, adjoins the parcel to the east. Finally, the southern portion of the original Mount Carmel tract is developed with the Mount Carmel Village apartment complex fronting onto Douglas.

CASE HISTORY : The property is partially platted as a Villa Christi Senior Residence Addition recorded October 15, 1996, a portion of Villa Christi Addition recorded September 23, 1998, and has a 15-foot strip on the east edge of the site that is unplatted. The majority of the property is currently zoned "TF-3"; however, there is a 15-foot strip on the west edge zoned "MF-29".

The Mount Carmel Academy opened on the 40-acre site as All Hallows Academy in 1886. The name was changed to Mount Carmel in 1902. In 1921, a girls' dormitory was built on this site of this proposed application. Mount Carmel Academy was relocated to East Central in 1961. After being used briefly as Notre Dame High School (now Bishop Carroll), the academy buildings except the girls' dormitory were razed. Between 1977 and 1983, the Mount Carmel Village apartment complex was constructed on the southeast corner near Douglas and St. Paul. The only remaining buildings from the old Mount Carmel campus are the girls'

dormitory on proposed Parcel 1 and a gazebo/walkway to the west. Except for the application area, the remainder of the Mount Carmel Academy tract is governed by DP-61, Woodlake Residential C.U.P., including the apartment complex on Douglas.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"	Single-family residences
EAST:	"MF-29"; "TF-3"	The ARC of Sedgwick County; single-family residences
SOUTH:	"MF-29"	Vacant (being improved for single-family); apartment complex
WEST:	"MF-29" and "TF-3"	Vacant; single-family residences

PUBLIC SERVICES: Transportation access is via 2nd Street North, a collector. Traffic counts in 2000 were approximately 4,000 cars per day westbound and 6,000 cars per day eastbound.

Public water and sewer services are available. The area lacks storm sewers and has drainage problems during heavy rains. A major storm sewer project is scheduled for the 2004 C.I.P. to reduce the existing drainage problems.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the site as "public/institutional". The proposed uses on Parcel 2 would be in conformance with the land use guide. The primary use as apartments for Parcel 1 is not in conformance to the *Plan*, but the *Plan* identifies the abutting properties to the west and south for medium density residential use. The area is designated as a "revitalization" area on the Wichita Residential Area Enhancement Strategy Map of the *Comprehensive Plan*. The proposed development supports the efforts to encourage infill projects in the older areas of Wichita.

RECOMMENDATION: The P.U.D. is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed P.U.D. meets these criteria in several ways. First, the types of uses proposed for the two parcels are specifically based on the proposed uses and these uses do not fit the "pure" zoning use classifications of the UZC. The Mennonite Housing project will provide independent and assisted living, with some community assembly/office services (Wellness Center) provided for the residents' use. The ILRC facility combines office, community assembly, training, and library use into one building. Parking needs are unique for each proposed user. The Mennonite Housing is taking advantage of an irregularly-shaped tract that has limited frontage on the street and would be surrounded on three sides by lower density residential uses. Both uses represent an infill development to spur reutilization of the abandoned Mount Carmel campus.

There are several features of the design concept that need some further detailing and review prior to final approval. First, proposed architectural character, materials and elevations are unavailable currently. Because of the close proximity to single-family residential uses, this level of site plan review is important to ensure compatibility. Also, it is possible that a redesign of the building footprints, drives, and parking areas would improve setbacks from single-family lots, integrate the two parcels better, and make better use of open space.

Secondly, the streets in the existing area are subject to flooding during moderate to heavy rainfalls. This is an existing problem; not one being created by the proposed development. It could be expected to contribute to the problem slightly because of increased impervious area. Engineers are evaluating possible interim solutions to avoid any increase in drainage, such as using the parking lot as a retention basin.

In the long run, the drainage problems should be resolved by the large storm sewer capital improvements project that is to be extended through the area. Until this C.I.P. project is complete (currently projected for 2004-05), the developer will have to ameliorate drainage by on-site solutions.

Also, the design concept as shown on the proposed P.U.D. uses the rear setback on Parcel 2 for parking and places the three-story residential units just beyond the setback line on Parcel 1. Since this is out of character with the surrounding residential environment, Staff has requested that the applicant prepare line-of-sight drawings for the apartment views to adjoining residential lots when architectural site elevations are available. These would be used to determine where additional landscaping/screening is needed to protect adjoining low-density residential housing from views by second and third story apartment units. And, landscaping is requested at 1½ times the Landscape Ordinance when parking is within 15 feet of the boundaries of property used for low-density residential use. General Provision 11 includes these provisions.

Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. General Provision 9 shall be revised to stipulate that the buildings shall be designed with a residential architectural character, and shall utilize residential materials, color, texture, and roof types. Site elevations shall be submitted to and approved by MAPC prior to issuance of any building permit.
2. Access shall be limited to one point on each parcel.
3. The developer shall be required to demonstrate to the satisfaction of the City Public Works Director that construction will not have a significant impact on existing drainage problems prior to the issuance of a building permit.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
6. The applicant shall submit 4 revised copies of the PUD. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Historically the property was used as institutional use as a girls' dormitory. More recently, Mennonite Housing has used the old dorm building as an office and as temporary housing quarters for volunteer workers visiting Wichita. The current zoning is "TF-3" and would allow duplexes. The surrounding area is zoned for multi-family use on the east, south, and west. The ARC of Sedgwick County, a non-profit office use, is located to the east. The property to the south and west is being developed with single-family homes. The remainder of the old Mount Carmel site (DP-61) is vacant or developed with apartments. The character of development to the north of 2nd Street and in the surrounding neighborhood is that of single-family housing with scattered duplexes.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family homes and duplexes as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of multi-family and institutional uses on this tract of land is similar to its historic use as the Mount Carmel Academy, and fits with the surrounding uses to the east and south, The ARC of Sedgwick County, and Mount Carmel Village apartments. From a land-use perspective the only detrimental effect would be potentially across 2nd Street North where low-density residential housing has been located for many years. The other potential detrimental effect is increased flooding, unless the additional runoff from the new development is adequately handled by interim solutions until the storm drainage C.I.P. project is completed.
4. Length of time the property has remained vacant as zoned: The property has been underutilized since the late 1960s when the main campus of Mount Carmel Academy was demolished.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The *Comprehensive Plan* shows the property for public/institutional use, which is in conformance to some of the proposed uses on both parcels. The residential uses are in conformance with the medium density residential designation shown from nearby properties to the east and west. The use of the property would contribute to infill development.
6. Impact of the proposed development on community facilities: The site will have an impact of increased traffic on 2nd Street, and to a lesser extent on north-south streets, primarily generated by the office and community assembly uses of the Independent Living Resource Center. The Mennonite Housing project for senior residents would be anticipated to generate relatively low volumes of traffic.

Staff distributed a revised condition for architectural compatibility and pointed out that the staff report recommending approval was based on a maximum height of 35 feet.

MARK SAVOY, agent for applicant, indicated they were in agreement with recommended conditions of approval as revised and can live with a 35-foot height limit. Drainage has been one of their concerns, they are aware of the situation, and the CIP project is scheduled in 2004-5.

WELLS asked about the drainage plan.

SAVOY indicated the parking lot will be used to retain storm water.

ANDY BIAS, speaking on behalf of the applicant indicated Mennonite Housing was shifting their office facilities to 21st and Topeka and that freed this site up for someone else.

JUDY WEIGEL, Independent Living Center, stated they currently office on West Douglas using two building which makes it difficult to serve the needs of clients and to effectively manage staff. She showed a rendering of the proposed building.

Barfield moved, **Coulter** seconded to approve subject to staff recommendation (11-0) (Warren was out of the room)

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)